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## THE FAIRNESS PROJECT: DOING WHAT WE CAN, WHERE WE ARE

Tina McKee, Rachel Anne Nir, Jill Alexander, Elisabeth Griffiths, Tamara Hervey\*

**Abstract:** The legal profession, in common with other professions, does not represent the diverse society it serves. In England and Wales, it is significantly more difficult to become a lawyer if you are not white, male, middle class, privately and Oxbridge educated: this is also true for other protected characteristics, such as disability, sexual orientation, and age. The students we teach are fundamentally and structurally disadvantaged. This paper reports on the aims and objectives of *The Fairness Project*, and the consequent design of its learning materials. Structural inequalities are all-pervasive and long-standing. No one project, no one generation, will secure equality, more diversity and fairness in the legal profession. But that is not a reason to do nothing. As educators and as human beings, who ourselves are relatively advantaged, we have a moral and pedagogical imperative to do what we can, where we are. That is what *The Fairness Project* is all about.

**Keywords:** *equality and diversity; access to the legal profession; intersectional disadvantage; curriculum development; student awareness and agency*

### I. Introduction

There is no doubt that the legal profession, in common with other professions, does not represent the diverse society it serves. It is significantly more difficult to become a lawyer if you are not white, male, middle class, privately and Oxbridge educated than if you are. This is also true for other protected characteristics, such as disability, sexual orientation, and age (or at least age on entering the profession). The difficulty gets more intense the further up the 'career ladder' one climbs: if we look at the 12 UK Supreme Court judges, 10 are white men and two are white women; 9 were privately educated and 9 were Oxbridge educated.

Therefore, the undergraduate students we encounter in two post-92 universities and (although less so) one Russell Group university in the north of England are fundamentally and structurally disadvantaged when it comes to their stated career aspirations on entering Higher Education. *The Fairness Project*, designed by McKee and Nir at the University of Central Lancashire (UCLan) in 2015/16, and adopted with some small modifications in precise mode of delivery by Alexander and Griffiths at the University of Northumbria, and Hervey at the University of Sheffield,<sup>1</sup> stems from our reflections and action.

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<sup>1</sup> Dissemination of *The Fairness Project* outside UCLan began at the Association of Law Teachers conference in 2016. Northumbria and Sheffield Universities expressed interest in sharing the teaching materials and it was agreed to set up a three-way research project to evaluate the impact on students. Subsequent conference dissemination at the HEA Annual Conference and the SLS Annual Conference in 2017 has led to the sharing of materials with four further universities: Birmingham; Portsmouth; Liverpool and Wolverhampton. We do not have data from those universities at this stage of the project.

Our focus is not only on how we should educate our students to be realistic about where they stand in the competitive market for jobs in the legal profession. We also seek to enable them to act on that knowledge, develop their skill-sets and profiles, and devise personal strategies to overcome barriers, to construct a future career for themselves that brings together their aspirations with reality. In short, we are seeking to ensure our students understand the disadvantages they face, without “crushing their spirits.” And, taking this further, for those among our students who do succeed, we are aiming to help them to become reflective lawyers and fairer recruiters or managers in the future, so that they do not contribute to perpetuating the cycles of disadvantage that they currently face.

### ***A. Rationale and initial drivers for the project***

The initial driver for *The Fairness Project* was a sense of moral compunction, arising from McKee and Nir’s observations and reflections as teaching staff at UCLan. They observed that UCLan students were experiencing declining traction in the graduate employment market. The recession, which began in 2008/9,<sup>2</sup> led to a reduction in the number of training contracts offered by law firms, the traditional route from Higher Education into the profession of solicitor. Instead, firms recruited increasing numbers of graduates into posts variously described as: paralegal and senior paralegal; legal assistant; legal support assistant; fee earner; and case managers. Graduates reported working in an environment of capped salaries and in posts which were not transparent in terms of possible progression to qualification as a solicitor.

The data on training contract opportunities then, and now, remains stark. In 2015/16, 15,950 students graduated with degrees in law from universities in England and Wales.<sup>3</sup> However, only 5,728 trainee registrations were recorded.<sup>4</sup> 81.4% of these training contracts were awarded to graduates from the 24 Russell Group universities.<sup>5</sup> This pattern is not unique to England and Wales. In the USA, it has been argued that the legal profession is in crisis because it fails to prepare law students adequately for the challenges of legal practice.<sup>6</sup> There is also evidence of an oversupply of law graduates in other jurisdictions, such as Australia and Japan.<sup>7</sup>

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<sup>2</sup> Britain officially entered recession on 23 January 2009 when the Office for National Statistics reported that the economy had shrunk through the last two quarters of 2008.

<sup>3</sup> The Law Society “Trends in the Solicitors Profession Annual Statistics Report 2016” (The Law Society, 16 June 2017), 4. < <http://www.lawsociety.org.uk/support-services/research-trends/annual-statistics-report-2016/>> (accessed 10 March 2018).

<sup>4</sup> Ibid, 53.

<sup>5</sup> Chambers and Partners ‘Law firms Preferred Universities 2016’ (Chambers Student, February 2016) <<http://www.chambersstudent.co.uk/where-to-start/newsletter/law-firms-preferred-universities>> (accessed 23 October 2017). At the same time, Hervey and others at the University of Sheffield became aware of declining numbers of students from Sheffield securing training contracts. This was particularly visible when several of the top ‘magic circle’ London-based law firms ceased their recruitment activities in Sheffield. It was discovered, for instance, that one such law firm had not recruited a student from Sheffield to a training contract for over a decade.

<sup>6</sup> Richard E Redding, “The Legal Academy under Erasure” (2014) 64 CLR 359, 201. See generally, Brian Z Tamanaha, *Failing Law Schools* (Chicago: University of Chicago Press, 2012); Sally Wheeler, “‘Dangerously, Outrageously, Elitist’ – A Solution to Law Graduate Unemployment” (2013) 4 JLS 670; Deborah Jones Merritt, “The Job Gap, The Money Gap and the Responsibility of Legal Educators” (2013) 41 Washington University Journal of Law and Policy 1; Daniel Thies, “Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education and the New Job Market” (2010) 59 Journal of Legal Education 598; Albert J Harno, *Legal Education in the United States* (The Law Book Exchange Reprint, San Francisco: Bancroft-Whitney, 2004).

<sup>7</sup> See Angela Melville “It is the worst time in living history to be a law graduate: or is it? Does Australia have too many graduates?” (2017) 51:2 TLT 203; Herbert M Kritzer, “It’s the law schools, stupid! Explaining the continuing increase in the number of lawyers” (2012) 19 International Journal of the Legal Profession 209.

### *B. The broader context*

More broadly, despite the professed intentions of the regulatory authority for solicitors in England and Wales (the Solicitors Regulatory Authority (SRA)),<sup>8</sup> and for barristers (the Bar Standards Board (BSB)),<sup>9</sup> both the quantitative and qualitative data on equality and diversity within the legal profession reveal at best a position of stasis and, at worst, a picture of decline.<sup>10</sup> Data collated by the SRA and the Law Society in autumn 2015<sup>11</sup> reveals the following. Women were awarded 62.3% of new training contracts, accounted for 61.5% of new admissions to the roll (i.e. newly qualified solicitors), but made up only 29% of partners. The average salary for a female solicitor was 19.2% less than her white European male counterpart.

Data on ethnicity is less reliable.<sup>12</sup> We know that in 2014/15 black or minority ethnic (BAME) groups accounted for 27% of new admissions to the roll.<sup>13</sup> The total representation of BAME holders of practising certificates rose to 16% in 2016.<sup>14</sup> This is higher than the BAME percentage in the general population, which is 14.4%.<sup>15</sup> However, only 11.1% of partners come from a BAME background.<sup>16</sup> Further, 9.8% of all BAME solicitors work as sole practitioners, compared to 3.9% of white solicitors.<sup>17</sup> Sole practitioner status brings with it the vulnerability of being a small business together with the related public indemnity insurance costs and elevated risk of breaching elements of the complex regulatory framework for legal services. The pay of BAME solicitors is 20% less than that of white male equivalents.<sup>18</sup>

Socio-economic background is pivotal in progression within the legal world, particularly at the most senior levels of the legal profession. Those educated at private fee-paying schools comprise 7% of the UK's general population. However, they account for 70% of judges; 51% of partners at 'magic circle' firms;<sup>19</sup> and 23% of lawyers in private practice.<sup>20</sup> In June 2015, the Social Mobility and Child Poverty Commission<sup>21</sup> reported, drawing on qualitative interview data,<sup>22</sup> that it is more difficult than ever for graduates from modest or

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<sup>8</sup> There are 10 Founding Principles governing solicitors, Principle 9 of which seeks to 'encourage equality of opportunity and respect for diversity', see SRA Code of Conduct (Version 19, 2017, originally published 2011), available at: <<https://www.sra.org.uk/solicitors/handbook/code/>>, (accessed 07 December 2017).

<sup>9</sup> See, Bar Standards Board, *BSB Handbook*, (3rd edn, 2018), available at: <<https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/>> (accessed 10 March 2018).

<sup>10</sup> SRA and Law Society diversity data for 2014/15; 2015/16; and 2016/1. For example, the Law Society's Annual Statistics Reports; Diversity Profile Reports; and Private Practice Solicitors Salaries reports. Data is drawn from a variety of sources including the Business Intelligence team at the SRA and the Law Society's Research unit and Law Society surveys of Practising Certificate holders.

<sup>11</sup> See <[www.sra.org/solicitors/diversity-toolkit/law-firm-diversity-tool.page](http://www.sra.org/solicitors/diversity-toolkit/law-firm-diversity-tool.page)> accessed 16 October 2017.

<sup>12</sup> As of 2015, the provision of ethnicity data by individuals applying for or renewing practising certificates was made optional. The Law Society acknowledges that the proportion of practising certificate holders for whom ethnicity is unknown is likely to increase due to the changes in which this data is collected by the SRA.

<sup>13</sup> Law Society, "Trends in the Solicitor's Profession Annual Statistics Report" (Law Society, 2015).

<sup>14</sup> Law Society (n 3).

<sup>15</sup> See data available from <<https://www.ons.gov.uk/census/2011census>>, accessed 18 December 2017.

<sup>16</sup> See Law Society, "Diversity Profile of the Solicitors Profession 2015" (Law Society, October 2016), 15.

<sup>17</sup> Ibid.

<sup>18</sup> See Law Society, "Report on Private Practice Solicitors' Salaries" (Law Society, 2015), 7.

<sup>19</sup> An elite group of London law firms with a focus on corporate and financial work and an international focus, see <<http://www.chambersstudent.co.uk/law-firms/types-of-law-firm/magic-circle-law-firms>>, accessed 7 December 2017.

<sup>20</sup> Law Society (n 16) 22.

<sup>21</sup> The Commission is an advisory non-departmental public body established under the Child Poverty Act 2010 with a brief to monitor the progress of the government and others on child poverty and social mobility.

<sup>22</sup> The Child Mobility and Child Poverty Commission report's data is taken from in-depth interviews with individuals, cross-hierarchy, at ten elite law and accountancy firms and with general counsel who instruct law firms from a number of FTSE 100 companies.

poorer backgrounds to access every level of the professions of law and accountancy.<sup>23</sup> Moreover, despite efforts to improve social inclusion over the past 10-15 years, even *entry* to elite law firms or barristers' chambers continues to be dominated by people from more privileged socio-economic backgrounds.<sup>24</sup> Indeed, this dominance has become *more* pronounced over the past 30 years. To become a solicitor or barrister, graduates currently need a qualifying law degree (or conversion course), a postgraduate qualification (Legal Practice Course or Bar Professional Training Course), and a period of 'workplace training' (two years' training contract, or one year "pupillage"). Competition for this stage of entry to the legal profession is fierce. There were 15,950 law graduates in 2015/16. Yet only 5,728 training contracts<sup>25</sup> and 882 pupillages were registered in that year.<sup>26</sup> Law firms tend to recruit most new trainee solicitors from a limited group of "elite" universities.<sup>27</sup> Students at these universities are more likely to have attended selective or fee-paying schools, and/or to have come from affluent backgrounds.

Although the SRA have proposed changes to the education of lawyers (the Solicitors Qualifying Examination<sup>28</sup> (SQE)) which in turn may lead to changes in the way lawyers are recruited, for the most part in the larger law firms, trainee solicitors are recruited by increasingly complex and managed recruitment exercises. Potential trainees often have to participate in multifaceted recruitment techniques such as psychometric testing; networking events; and assessment centres. Dedicated Human Resource professionals and graduate recruitment specialists, with partner involvement particularly in the smaller law firms, often run these recruitment exercises. The increasingly systemised and managed process of recruitment has led to suggestions that law firms now recruit solely on merit and talent.<sup>29</sup> The contention is that the profession is thus becoming increasingly diverse. Law Society figures suggest that there are more women solicitors and solicitors from ethnic minority groups with practising certificates.<sup>30</sup> Nonetheless, discrimination endures. Discrimination based on gender, ethnicity and above all on social class,<sup>31</sup> and particularly at the intersection of these characteristics,<sup>32</sup> is not automatically eradicated by more managed recruitment processes.<sup>33</sup>

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<sup>23</sup> Social Mobility and Child Poverty Commission, "A Qualitative Evaluation of Non-Educational Barriers to the Elite Professions" (Child Mobility and Child Poverty Commission, June 2015).

<sup>24</sup> There are a range of measures by which students' level of privilege can be gauged e.g. 'first generation', English as a second language, low SEC neighbourhoods, low participation neighbourhoods, low-ranking secondary schools, free school meals, post-1992 Universities etc.

<sup>25</sup> The Law Society, "Annual Statistics Report 2016" (The Law Society, 16 June 2017)

<<http://www.lawsociety.org.uk/support-services/research-trends/annual-statistics-report-2016/>> accessed 18 October 2017. This is actually an *increase* of 5% on the previous year.

<sup>26</sup> Bar Standards Board, "Pupillage Statistics" <[www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/](http://www.barstandardsboard.org.uk/media-centre/research-and-statistics/statistics/pupillage-statistics/)> (accessed 18 October 2017).

<sup>27</sup> These include Oxbridge and the 'Russell Group' of universities, see <<http://russellgroup.ac.uk/>> (accessed 7 December 2017).

<sup>28</sup> Solicitors Qualifying Examination aims to introduce a common assessment for all those who intend to qualify as a solicitor. For more information see <[www.sra.org.uk/solicitorexam/](http://www.sra.org.uk/solicitorexam/)>, (accessed 07 December 2017).

<sup>29</sup> Hilary Sommerlad, et al., "Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices" (Legal Services Board, 2010).

<sup>30</sup> Women solicitors with Practising Certificates (PCs) up by 3.4% and Solicitors from minority ethnic with PCs up by 3.2%: The Law Society (n 25).

<sup>31</sup> Ashley and Empson describe the conflicting dynamics that lead these same law firms to develop fierce recruitment strategies to attract talent while at the same time wanting to reduce risk and enhance image, suggesting that there is in fact no room for increased diversity based on social class, see Louise Ashley and Laura Empson, "Differentiation and Discrimination: Understanding Social Class and Social Exclusion in Leading Law Firms" (2013) 66:2 HR 219-244.

<sup>32</sup> Heather Rolfe and Tracy Anderson, "A Firm Choice: Law Firms' Preferences in the Recruitment of Trainee Solicitors" (2003) 10:3 IJLP 315 and Ashley and Empson, (n 31)

<sup>33</sup> Sommerlad, *et al.* (n 29); Hilary Sommerlad, "The 'Social Magic' of Merit: Diversity, Equity and Inclusion in the English and Welsh Legal Profession (2015) 83 Fordham Law Review 2325; Hilary Sommerlad, "The

As the Social Mobility and Child Poverty Commission report explains, “merit” or “talent” – sometimes presented as unproblematic concepts in recruitment contexts – are in fact highly ambiguous.<sup>34</sup> This ambiguity allows recruitment, and career progression, to be coded by reference to middle class norms. Relevant proxy markers of potential include “drive”, “commitment to a legal career”, “strong communication skills” and above all, “confidence”, “gravitas”, “poise”, and “polish”.<sup>35</sup> Firms typically recruit using a two-stage process: a sift for intelligence, measured through A-level results<sup>36</sup> and psychometric tests; and a second stage focusing on “commitment to a legal career”, and “polish”. A key marker of evidence of “commitment to a legal career” is relevant work experience. But access to such work experience is out of the reach of many students who lack the social networks to provide opportunities for law-related work experience.<sup>37</sup> “Polish” is exemplified by evidence of, for instance, debating skills, and outward confidence. A perceived ability to relate to commercial clients is key, as potential employees must show promise of generating high levels of fees for the firm in the future.

“[If I recruited somebody] ... she’s short of polish. We need to talk about the way she articulates, the way that she, first, chooses words and, second, the way she pronounces them. It will need, you know ... some polish because whilst I may look at the substance, you know, I’ve got a lot of clients and a lot of colleagues who are very focused on the personal presentation and appearance side of it.”<sup>38</sup>

Recruiters interviewed by the Commission believed that it was more difficult for candidates from modest backgrounds to present with “polish”. Those with professional parents had a head start, due to their vocabulary, articulation, ability to name-drop and familiarity with the professional world:

“My kids go to a private school, they’re very articulate, they’re very confident, they’ve got me and their mum who work professionally and the people they meet are professionals and as they’ve come through the system and they come to apply for jobs, if they want to be lawyers ... they’ve got ten steps ahead ... they know people whose name they can drop into conversation, the environment they’ve been brought up in so much more lends itself to the criteria that firms are looking for.”<sup>39</sup>

Environment here also includes educational environment: applicants who met these coded criteria were often Oxbridge educated. In short, applicants already have the skills to behave

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commercialisation of law and the enterprising legal practitioner: continuity and change’ (2011) 18 IJLP 73; Louise Morley “The X Factor: Employability, Elitism and Equity in Graduate Recruitment” (2007) 2:2 TFCS 191.

<sup>34</sup> Social Mobility and Child Poverty Commission, (n 23), 6, citing Ashley and Empson, (n 31). See also Sommerlad *et.al* (n 29); Sommerlad (2011) and (2015) (n 33); Rolfe and Anderson (n 32).

<sup>35</sup> Social Mobility and Child Poverty Commission, (n 23) 11.

<sup>36</sup> The examinations undertaken in final year of high school in England and Wales. Students without the requisite A levels were removed at first sift, irrespective of their subsequent University performance.

<sup>37</sup> See Andrew Francis, “Legal Education, Social Mobility and Employability: Possible Selves, Curriculum Intervention, and the Role of Legal Work Experience” (2015) 42 (2) JLS 173; Andrew Francis and Hilary Sommerlad, “Access to Legal Work Experience and its Role in the (re)Production of Legal Professional Identity” (2009) 16:1 IJLP 63; Wolfgang Lehmann, “Extra-credential experiences and social closure: working class students at university” (2012) 38 British Educational Research Journal 203.

<sup>38</sup> Child Mobility and Child Poverty Commission, (n 23), 46.

<sup>39</sup> Child Mobility and Child Poverty Commission, (n 23), 40; see also, Sommerlad *et.al* (n 29); Sommerlad (2011) and (2015) (n 33); Rolfe and Anderson (n 32); Ashley and Empson, (n 31); Francis and Sommerlad, (n 37); Francis (n 37).

like stereotypical lawyers in a selection process. Recruiters thus believe that they come to the job already enabled to engage both with other lawyers, and with clients.

“So communication will be one [characteristic], which will obviously come across in the interview, just by its very nature. Poise and gravitas in the room is part of that ... the people who will be the most confident are generally those who are from what people would see as a more stereotypical background for a City lawyer. They’ve grown up in a world where they feel more comfortable. They’ve probably engaged with lawyers who are friends of their family. They’ve been used to engaging with people in that way through their education system. They’ve probably been more likely to have gone to an Oxbridge university, and again, all those things build up a way of behaving that does project confidence.”<sup>40</sup>

The encoding of apparently neutral characteristics of “merit” or “talent”, “drive” and “commitment”, with middle-class qualities, and experiences that are easier for middle class applicants to access, goes some way to explaining the pervasive and long-standing nature of structural inequalities in the legal profession. In addition, the UK’s outcome-focused regulatory regime has relied on the legal profession to “heal itself” by improving equality and diversity. This approach implies that rational economic actors will, over time, overcome irrational preferences for “like to recruit like”. Organisations will recruit individuals with different characteristics and backgrounds, because organisations with diverse staffing bases have been shown to be more successful.<sup>41</sup> But this hands-off regulatory approach has faltered, perhaps in part due to the global economic climate. Although there are talented applicants outside the pool of students in elite universities, those universities provide a large pool, and it is easier and, therefore, cheaper, to recruit from that pool. Given the volume of applications, initial screening on A levels is seen as a quick and practical indicator of intellectual ability. Good candidates in other universities are geographically and educationally disparate, and recruiting the right candidate would take longer and be costlier. Employers certainly did not see an urgent commercial case for diversity in recruitment contexts<sup>42</sup> and were not persuaded that, on balance, it would be better for business:

“I’m not sure the law firms are sufficiently focused on taking a risk on people. I mean, they interview people who aren’t from professional backgrounds, didn’t go to these private schools, etc. They just seem so much less impressive.”<sup>43</sup>

“We do see the problem and for us it boils down to a budgetary one, being frank about it ... is there a diamond in the rough out there at University XXX? Is there a diamond out there? ... statistically it’s highly probable but the question is ... how much mud do I have to sift through in that population to find that diamond? A reasonable amount ... we’ve got a finite resource in terms of people hours and finite budget in terms of costs to target there.”<sup>44</sup>

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<sup>40</sup> Child Mobility and Child Poverty Commission, (n 23) 40.

<sup>41</sup> See Scott E Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools and Societies* (Princeton: Princeton University Press, 2008).

<sup>42</sup> Although they did report that they could see the value of diversity, within the firm’s Corporate Social Responsibility agenda. This is a more superficial approach to diversity, focused around the need to avoid reputational damage, rather than a desire to decode the encoded middle-class markers of merit that feed into their ordinary recruitment processes.

<sup>43</sup> Child Mobility and Child Poverty Commission, (n 23) 46.

<sup>44</sup> Child Mobility and Child Poverty Commission, (n 23) 45.



More proactive stimulus is therefore needed to secure progress towards greater equality and diversity in the professions.<sup>45</sup> In particular, as the Social Mobility and Child Poverty Commission concluded in 2012, specific diversity barriers must be tackled, namely: the cost of training; the use of high school grades as a primary selection criteria; the significance of prior work experience in recruitment decisions; and recruitment from elite universities.<sup>46</sup> Barriers to career progression require similar proactive approaches.<sup>47</sup>

To summarise, although women's access to the legal profession outstrips that of men at entry, career progression is not equal. Those from a BAME background are able to enter the legal profession, but are disproportionately represented in its more precarious firms. Both women and those from a BAME background earn, on average, 20% less than their white male counterparts in the legal profession<sup>48</sup> and are similarly struggling to achieve partnership at a rate commensurate with white male solicitors.<sup>49</sup> Similar patterns are found at the Bar.<sup>50</sup> Entry into the legal profession is dominated by those from "elite" universities. Those educated in private fee-paying schools, rather than the state sector, disproportionately dominate senior legal posts in both private practice and the judiciary.<sup>51</sup> Most significantly, students from lower socio-economic backgrounds find it much harder to access the legal profession in general, to progress within it, and particularly to secure the top legal jobs.<sup>52</sup>

### *C. Our student cohorts and key motivations*

The original project designers were particularly motivated by the significance of socio-economic background to entry into and career progression within the legal profession. UCLan is a large post-92 university in the North of England. 50% of UCLan students come from homes with an income of £20 000 or less, that is from low income families who qualify for state welfare support.<sup>53</sup> These figures are replicated among UCLan law students,<sup>54</sup> almost 50% of whom are from low socio-economic groups. UCLan Law School has almost double the national average of students from neighbourhoods with lower than average participation in Higher Education. It also has more than double the national average of BAME students. The patterns of disadvantage outlined above, particularly at the intersection of social class and ethnicity,<sup>55</sup> were a key motivation in setting up the project.

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<sup>45</sup> Social Mobility and Child Poverty Commission, "Fair Access to Professional Careers: A Progress Report by the Independent Reviewer on Social Mobility and Child Poverty" (Social Mobility and Child Poverty Commission, 2012).

<sup>46</sup> Ibid 28-41.

<sup>47</sup> See Darrell Anthony Luzzo and Ellen Hawley McWhirter, "Sex and Ethnic Differences in the Perception of Educational and Career-Related Barriers and Levels of Coping Efficacy" (2001) 79:1 JCD 61.

<sup>48</sup> See The Law Society (n 18)

<sup>49</sup> See The Law Society "Diversity Profile of the Solicitors Profession 2015" (October 2016).

<sup>50</sup> See Anna Zimdars, 'The Profile of Pupil Barristers at the Bar of England and Wales 2004–2008' (2010) 17:2 IJLP 117. See also, BSB, Bar Ethnicity Table (2010-2014)

[www.barstandardsboard.org.uk/media/1662666/bar\\_ethnicity\\_table\\_.pdf](http://www.barstandardsboard.org.uk/media/1662666/bar_ethnicity_table_.pdf), (accessed 8 December 2017).

<sup>51</sup> Social Mobility and Child Poverty Commission, *Elitist Britain*, (Social Mobility and Child Poverty Commission, 2014).

<sup>52</sup> Chambers and Partners (n 5)

<sup>53</sup> UCLan data derived from UCLan Strategic and Development Services 2014; HEFCE POLAR 3 report 29 July 2015 and applications for UCLan Bursary financial support 2017/18.

<sup>54</sup> UCLan, Strategic and Development Services, (n 53).

<sup>55</sup> 'Intersectionality' is used to describe the way in which some individuals may have more than one social identity that is subject to oppression and discrimination, and that for such individuals, the effect of prejudice is thereby multiplied. Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' [1989] 1 UCLF 139.



Northumbria Law School's<sup>56</sup> BAME population is significantly smaller. 80% of its students identify as white; 12% as Asian; and 2.5% as Black. Three quarters attended a state school.<sup>57</sup> Half of the undergraduate cohort are first in their family to university. 40% of Northumbria law students describe themselves as working class, 30% as middle class and 2% as upper/middle class. The remaining 28% either did not respond (18%) or reported a mix of various combinations, perhaps reflecting some of the difficulties around social class in the contemporary UK.<sup>58</sup> A significant motivating factor for Northumbria Law School stemmed from a growing appreciation that the relatively high proportion of its white, state-educated, working class students, also geographically isolated in the North East of England, would undoubtedly experience disadvantage in entering the legal profession.

Sheffield Law School<sup>59</sup> has around 1000 undergraduate students, including 100 visiting students each year, mainly on the Erasmus programme. 80% of law students completing their degrees in Sheffield are UK nationals, 5% are from another EU or EEA country, and 15% are nationals of other countries, principally Malaysia, Singapore, China, Hong Kong, India, and Canada.<sup>60</sup> The UK students self-reported as 2:1 coming from the North of England,<sup>61</sup> with 10% of Sheffield law students from "low participation neighbourhoods".<sup>62</sup> The relatively high proportions of non-UK nationals, coupled with the backgrounds of the UK nationals, was a key motivator in Sheffield Law School joining the project: in addition to redressing socio-economic and perceived geographical disadvantage, it was felt important to develop cultures of mutual understanding and respect among the very different backgrounds and cultures represented among the undergraduate cohort.

In all three law schools, female students outnumber male students, by a ratio of approximately 2:1. One of the key aims of *The Fairness Project* is to address disadvantages to women seeking to become successful members of the legal profession in England and Wales.

## **II. The Pedagogical Design: Affective Learning Domains**

The nature of *The Fairness Project* and our aspirations for its impact led to a careful design of the environment experienced by students as they progress through the stages of learning involved in the project. Our pedagogical approach is informed by Bloom's<sup>63</sup> classification (and developments thereof<sup>64</sup>) of learning objectives into three domains: cognitive, affective and

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<sup>56</sup> Data collected from questionnaires to year 1 cohort as part of *the Fairness Project*, February 2017. Also see Race for Opportunity (RFO), "Regional Fact Sheet: Ethnic Minorities in the UK-North East" (RFO, 2010), available at:

<[https://race.bitc.org.uk/sites/default/files/kcfinder/files/RaceforOpportunity/NORTH\\_EAST%20Factsheet.pdf](https://race.bitc.org.uk/sites/default/files/kcfinder/files/RaceforOpportunity/NORTH_EAST%20Factsheet.pdf)>, accessed 09 December 2017.

<sup>57</sup> A further 10% a selective state school. Only 9% reported being privately educated.

<sup>58</sup> See, for instance, Lynsey Hanley, *Respectable: The Experience of Class*, (London: Penguin Random House, 2016); Mike Savage Niall Cunningham, Fiona Devine, Sam Friedman, Daniel Laurison, Lisa McKenzie, Andrew Miles, Helen Snee and Paul Wakeling, *Social Class in the 21<sup>st</sup> Century* (London: Penguin Random House, 2015).

<sup>59</sup> Data provided by James Mumford, Senior Strategy & Planning Officer, Strategy, Planning & Governance Department, The University of Sheffield, June 2017.

<sup>60</sup> Some other African countries are included, such as Ghana and Kenya; other Asian countries include Taiwan, Pakistan, Myanmar, Korea and Japan. The remaining international students are from middle Eastern countries (Bahrain, Jordan, Lebanon, Oman, Turkey, United Arab Emirates), Ukraine, Russia, New Zealand and the USA.

<sup>61</sup> Data gathered in a Level 1 lecture, October 2015.

<sup>62</sup> Data from Strategy, Planning & Governance Department, The University of Sheffield, June 2017. Twenty per cent of the cohort were reported as unknown in this category, reflecting the proportion of non-UK, non-EU/EEA nationals within the cohort.

<sup>63</sup> Benjamin S. Bloom et al., *Taxonomy of Educational Objectives: The Classification of Educational Goals* (New York: David McKay, 1956).

<sup>64</sup> David R. Krathwohl, "A Revision of Bloom's Taxonomy: An Overview" (2002) 41:4 TP 212.

psychomotor.<sup>65</sup> *The Fairness Project* encompasses some elements of the cognitive domain<sup>66</sup> but is mainly positioned within the affective learning domain. Affective learning concerns feelings, attitudes, values and motivations.<sup>67</sup> In theory, affective domain learning objectives are satisfied when students move through five hierarchical “phases” from simpler behaviour at the beginning (receiving and responding to information) to the more complex end point where students’ values, attitudes, or interests are affected by their learning. These stages are categorised as receiving, responding, valuing, organisation and, finally, characterisation.<sup>68</sup> We augmented the stages to incorporate forms of experiential learning,<sup>69</sup> particularly drawing from reflective practice.<sup>70</sup> In practice, students’ progress will not necessarily follow the linear model and may move within those hierarchies multiple times within a learning experience, and beyond that immediate experience, as they continue to process their learning thereafter.

In its practical realisation, *The Fairness Project* is experienced by students as a series of learning tasks, beginning with receiving and responding to information, proceeding through organising, evaluating and characterising that information, and culminating in personal reflection, with an invitation for further action. Each of the three law schools delivers the project in slightly different ways, but the core of learning, and the materials used, remain the same across all three law schools. At UCLan, it is delivered in the form of two small group (c12-16 students) workshops as an integrated part of a compulsory year 3 skills module. Similarly, at Northumbria, it is delivered in the form of two small group (c16-18 students) workshops, but as an integrated part of a compulsory year 1 employability module. In Sheffield, students begin with individual guided tasks, meet in peer groups (c15-20 students) for initial discussions, have some feedback in a small-group personal tutorial (c7 students), and finally meet as a year 2 cohort (c320-400 students) in a workshop. Details of the project’s core learning materials are reproduced in the Appendix.

### A. *Receiving and responding to information*

This phase of the project uses students’ research skills to draw out understandings of the contemporary nature of the various branches of the legal profession in England and Wales (and in the case of Sheffield Law School, where students are invited to research another jurisdiction if they wish, in their comparative contexts). Equipped with this information, students begin to form an awareness and understanding of where each of them sits in the market in which law graduates must compete for employment. Students gain some insight into how their profile and

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<sup>65</sup> The latter is not involved in *The Fairness Project*.

<sup>66</sup> In that it seeks to inculcate some knowledge in students.

<sup>67</sup> The cognitive domain tends to dominate curriculum design, no doubt partly driven by assessment; it is after all much easier to assess and measure cognitive knowledge than affective ‘feelings’. However, learning on *The Fairness Project* has the luxury of being unhampered by both the need to achieve a defined outcome and by assessment constraints and consequently we had the freedom to design within the affective domain.

<sup>68</sup> David R Krathwohl, *et al.*, *Taxonomy of Educational Objectives, Handbook II: Affective Domain* (New York: David McKay, 1964).

<sup>69</sup> John Dewey, *How We Think: A Restatement of the Relation of Reflective Thinking to the Educative Process* (Boston: DC Heath & Co, 1933); David A Kolb and Ronald Fry, ‘Toward an Applied Theory of Experiential Learning’ in Cary Cooper, (ed) *Theories of Group Process* (New York: John Wiley, 1975); David A Kolb, *Experiential Learning: Experience as the Source of Learning and Development* (New Jersey: Pearson, 2015); and Graham Gibbs, *Learning by Doing: A Guide to Learning and Teaching Methods* (Oxford: Oxford Centre for Staff and Learning Development, 2013).

<sup>70</sup> Donald Schön, *The Reflective Practitioner: How Professionals Think in Action* (New York: Basic Books, 1984); and more specifically for law, Timothy Casey, ‘Reflective Practice in Legal Education: The Stages of Reflection’ (2014) 20 CLR 317; Joane Rué *et al.*, ‘Towards High Quality Reflective Learning Amongst Law Undergraduate Students’ (2013) 19 QHE 191; and Karen Hinett, *Developing Reflective Practice in Legal Education* (Warwick: UK Centre for Legal Education, 2002).

experience is likely to be understood in that context. Students are thus “receiving” information, in the sense that they are becoming aware of the contextual landscape we outlined above. They are also “responding” to that information

In order to realise the objectives of the affective domain, we engage students in active cognitive processing,<sup>71</sup> by using inquiry based learning.<sup>72</sup> Inquiry based learning<sup>73</sup> is a form of inductive teaching,<sup>74</sup> where students are presented with a puzzle, challenge or series of questions to be answered, or dataset to be interpreted. Inquiry based learning is driven by questions or problems, is focused on the learners (teachers act as facilitators), and is inspired by self-directed, student-centred learning<sup>75</sup> and student-held responsibility for learning outcomes, including developing reflective practice.<sup>76</sup> Students are equipped with skills to investigate a puzzle or challenge, work out the answers to questions posed, or determine how to interpret a dataset. When using inquiry based learning, students must pay attention to relevant incoming information, from their own and peers’ research; organise that information into coherent representations to communicate it to the group; and integrate that information with their existing knowledge. Even at this apparently lower affective domain, higher order skills, especially reflection, begin to be engaged.

This kind of learning is apt for *The Fairness Project*, because where students discover the data on (lack of) equality and diversity in the legal profession for themselves, through a guided collaborative research task, they are much more likely to respond to the information and reflect on its meaning and significance – both personally and at a professional level – than if a set of facts and statistics were to be delivered by teachers in a “traditional” didactic lecture style. The resultant student learning is deeper and more meaningful.<sup>77</sup>

*The Fairness Project* secures a balance between, on the one hand, scaffolding student learning (the students are undergraduates, in years 1, 2 or 3 of their studies), and, on the other, offering opportunities for students to construct their own knowledge. In this regard, the project is mindful of criticisms of minimally guided approaches,<sup>78</sup> and seeks to provide sufficient structure so that, as well as “receiving and responding to information” about the subject, students develop “soft skills” including of collaboration, peer-learning, and independent

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<sup>71</sup> Richard E. Mayer, “Rote Versus Meaningful Learning” (2002) 41:4 TP 226-232.

<sup>72</sup> Inquiry based learning came to prominence through the work of the American philosopher and educator Dewey who was one of the earliest writers on the ‘learning by doing’ or ‘experiential’ approach: Dewey (n 69).

<sup>73</sup> Understood here as a ‘broad church’, encompassing not a narrow specific mode of learning, but ‘more a philosophical approach to learning and teaching which must have certain attributes but may incorporate a range of additional characteristics where appropriate’, see Rachel Spronken-Smith *et al.*, ‘Where Might Sand Dunes be on Mars? Engaging Students through Inquiry-based Learning in Geography’ (2008) 32:1 JGHE, 71-86. See also, Jamie Wood, “Inquiry Based Learning in the Arts: A Meta-Analytical Study” (CILASS, University of Sheffield, 2010).

<sup>74</sup> Michael Prince and Richard Felder, ‘The Many Faces of Inductive Teaching and Learning’ (2007) 36:5 JCST 14-20.

<sup>75</sup> Robert Cannon and David Newble, *A Guide to Improving Teaching Methods: A Handbook for Teachers in University and Colleges* (London: Routledge Falmer, 2000).

<sup>76</sup> Rachel Spronken-Smith, *et al.*, “How Effective is Inquiry-Based Learning in Linking Teaching and Research” (International Colloquium on International Policies and Practices for Academic Enquiry, Marwell, Winchester, UK, April 19-21, 2007). Available at:

[https://www.researchgate.net/publication/237242449\\_How\\_Effective\\_is\\_Inquiry-Based\\_Learning\\_in\\_Linking\\_Teaching\\_and\\_Research](https://www.researchgate.net/publication/237242449_How_Effective_is_Inquiry-Based_Learning_in_Linking_Teaching_and_Research) , (accessed 09 December 2010).

<sup>77</sup> Richard E. Mayer, “Rote Versus Meaningful Learning” (2002) 41:4 TP, 226-232.

<sup>78</sup> Paul Kirschner, *et al.*, “Why Minimal Guidance During Instruction Does Not Work: An Analysis of the Failure of Constructivist, Discovery, Problem-Based, Experiential, and Inquiry-Based Teaching” (2006) 41:2 EP 75.

research.<sup>79</sup> Coincidentally, the project models the connections between research and teaching, associated with improved learning outcomes in Higher Education.<sup>80</sup>

In practice, this pedagogical design means that the first task students are asked to tackle is to establish answers to some specific staff-set questions on (lack of) equality and diversity in the legal profession. The questions are found in Table 1 in the Appendix. Students conduct their research collaboratively, in a real-time workshop (UCLan and Northumbria), and in advance of the workshop, where they pool their efforts (Sheffield). While the research element of the exercise is not unduly complex, it does create some challenges for students in terms of making decisions on reliability and credibility when faced with a multitude of potential sources of (online) data. This aspect of the research task may be particularly challenging for first year students involved in the project. Further, students at all levels may find it difficult to grasp that different methodologies for measuring aspects of equality in the legal profession will lead to the formation of datasets that give different answers to apparently simple, measurable questions (such as “What percentage of partners or managers in law firms are women?”). However, the complexity of the research task does provide an opportunity for the workshop facilitator to offer advice on how to critically evaluate the validity of the myriad of sources easily available to students; a useful exercise for navigating future research. Following on from that research task, a whole group discussion provides an opportunity for the facilitator to work through the answers that the group have found, evaluate the sources upon which they have relied, and provide a transition to wider discussion and reflection through any observations, questions, or other points that arise.

### ***B. Organising and evaluating information***

The second phase of the project moves to the valuing, organising and, to some extent, characterising domains. The aim of this phase is to prompt students to consider an apparently neutral set of criteria for selection for a trainee solicitor role, in the context of two fictitious profiles of applicants. We use a simulated recruitment exercise, conducted in a workshop setting. This task is relatively neutral and non-threatening as, although it requires students to identify potential diversity barriers and deficits to be rectified, it deals with fictional characters at arm’s length. Working in groups, students role-play having responsibility for recruitment of a suitable candidate for a training contract in a local firm.<sup>81</sup> To support this decision, they are given a person specification for the role, and the curriculum vitae of two prospective recruits. Students are invited to articulate whom they would choose, and, crucially, to give reasons for their decision.

In drafting the role-play recruitment exercise, we drew on the literature above to encode into the scenario various aspects of “merit” or “talent”, as used by the legal profession in making recruitment decisions.

The person specification is drafted so that it reflects how law firms attempt to construct “an employable graduate identity”.<sup>82</sup> Very little of the text concerns what are known as “hard

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<sup>79</sup> Cindy E. Hmelo-Silver, *et al.*, “Scaffolding and Achievement in Problem-Based and Inquiry learning: A response to Kirschner, Sweller, and Clark” (2007) 42:2 EP, 99; Rachel Spronken-Smith, *et al* (n 76)

<sup>80</sup> Alan Jenkins, *et al.*, *Reshaping Teaching in Higher Education – Linking Teaching and Research* (London: Routledge, 2003) and Mick Healey, ‘Linking Research and Teaching to Benefit Student Learning’ (2005) 29:2 JGHE 183.

<sup>81</sup> The precise details of the firm vary between each institution, to suit local factors, but the essence of the role-play remains the same. Details in Appendix 1.

<sup>82</sup> Francis (n 37) 182.

currencies” within employability narratives (measurable experiences and achievements).<sup>83</sup> In that regard, the person specification refers to only educational characteristics (“a 2:1 from a reputable university”). There is no reference to secondary education.<sup>84</sup> The majority of the job specification concerns the “soft currencies” of personal skills, such as interpersonal skills, charisma, appearance or accent.<sup>85</sup> As employers screen large numbers of candidates for trainee positions in law firms, the “soft currencies” have assumed greater significance than in the past, and the “rules of the game” for entry have become increasingly personalised.<sup>86</sup> In that context, having the “correct cultural capital”<sup>87</sup> becomes more important, because of the extent to which evidence of promise of productive personal/professional relations between lawyers-to-be and their future clients underpins key decision-making in recruitment contexts.<sup>88</sup> The job specification in *The Fairness Project* refers to ability to participate in marketing and networking; confidence in dealing with clients and ability to earn their trust; and ability to make a valuable contribution to the firm. The specification can thus be read to imply unspoken assumptions about the firm and its clients. All of these embedded elements of the role-play lead the students to think that the law firm are looking for “a particular type of person”, even though that “type of person” is never expressly articulated, and in fact a different type of person can be defended on the basis of the written text in the job specification, differently interpreted.

Likewise, the two curriculum vitae are written to encode implied gender and ethnicity (the candidates are called Mohammed and Rebecca/Natalie<sup>89</sup>), as well as social class (for instance, Mohammed has a strong regional accent and worked in his father’s local business; Rebecca/Natalie’s hobbies include horse-riding and she volunteered in Kenya for 6 months during a gap year). Aspects of each candidate’s profile can be interpreted as expressing or exemplifying the “soft currencies” in the person specification: “confidence”, “work ethic”, “commercial awareness”, “legal experience”, “future commitment to the firm”, and so on. The profiles are carefully written so that each aspect of the specification can be found for each prospective candidate: *whatever decision a student wants to take during the role-play can be supported from the evidence*.

As they undertake the task of organising and evaluating the information presented in the person specification and the curriculum vitae, students invariably make assumptions about the information that is presented. Students regularly refer to the candidates’ A levels, and the schools they attended, even though secondary education is not mentioned in the person specification. The question of whether Mohammed has attended “a reputable university” (a local post-92 university is indicated) is always included in the students’ discussion. No student so far undertaking the exercise has ever questioned whether Mohammed is in fact white: all assume he is a BAME student.<sup>90</sup> Students invariably reason that Mohammed’s regional accent

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<sup>83</sup> Such as education, sporting and musical achievements and work experience, see Phillip Brown and Anthony Hesketh, *The Mismanagement of Talent: Employability and Jobs in the Knowledge Economy* (Oxford: Oxford University Press, 2011) 34-35.

<sup>84</sup> The majority of our students would be screened out on their A level results for Magic Circle firms’ recruitment. That is why we chose a local firm for the role-play.

<sup>85</sup> Brown and Hesketh, (n 83) 35.

<sup>86</sup> Brown and Hesketh, (n 83) 35.

<sup>87</sup> Donald Nicolson, “Demography, Discrimination and Diversity: A New Dawn for the British Legal Profession?” (2005) 12:2 IJLP 201, 205.

<sup>88</sup> Hilary Sommerlad and Peter Sanderson, *Gender, Choice and Commitment: Women Solicitors in England and Wales and the Struggle for Equal Status* (Aldershot: Ashgate, 1998) and Nicolson (n 87) 7.

<sup>89</sup> The Sheffield version of The Fairness Project uses ‘Natalie’, signifying upper middle class, rather than ‘Rebecca’.

<sup>90</sup> For a reported example, see <<http://www.dailymail.co.uk/news/article-3071791/I-m-white-guy-black-Caucasian-Oregon-man-given-Arabic-parents-says-suffered-lifetime-prejudice.html>>; or (implicitly) in the last sentence here: <<https://www.theguardian.com/uk-news/2014/dec/01/muhammad-truth-about-britains-most-misunderstood-baby-name>>, (both accessed 04 December 2017).

will count against him. These responses to the regional accent confirm that speech continues to be an important signifier of class,<sup>91</sup> and consequently a proxy for lack of “talent” or “fit” with a law firm’s needs. The law firm’s clients are usually constructed as being middle class, or at least as expecting to use the services of middle class lawyers, although neither of these assumptions is usually made explicit. Further, students often consider whether the fact that Rebecca/Natalie is a woman, her age, and that she is from the south of England, would count against her “future commitment to the firm”. Students are generally aware that it is unlawful to discriminate directly against a woman candidate, but they do consider whether Rebecca/Natalie will take maternity leave shortly after the firm has invested significantly in her during the training contract, and may choose to move south at that point to be closer to her family.

The choice of role-play is justified by the deeper learning that students are able to experience by imagination and empathy, compared to being presented with the findings of the literature in a traditional didactic format. Through the evaluation and organisation phase of affective domain learning, students begin to realise, possibly for the first time, that various characteristics, particularly when they intersect, can have a detrimental impact on an individual’s future prospects within the legal profession. For some students, particularly those who experience the workshop in their first year, this is the first realisation that their law degree alone will be insufficient to take them into a career-entry role in the legal profession. Before experiencing *The Fairness Project*, many of our students have not given much consideration to the extent to which law firms use social and cultural capital as indicators of success and future “promise”, and that law firms seek to recruit candidates who demonstrate all aspects of personal capital<sup>92</sup> (including education, voluntary, and work experiences, family connections) favoured within “elite” recruitment.<sup>93</sup> The role-play helps students to begin to question their (probably unspoken and definitely incorrect) assumption that all students who are completing a law degree will have equal access to a career in the profession.

Further, students begin to understand that what might appear to be reasonable, objective and un-biased job requirements – ability to network; earn the trust of clients; be confident in dealing with clients and so on – are not equally easy for all candidates to demonstrate. The ability of each of the two fictitious candidates to show these attributes in a way that is understood by those making recruitment decisions is influenced by the recruiters’ own cultural and social background, and the assumptions they make about gender, ethnicity and social class, as they interpret the two profiles as outlined in the curriculum vitae.

In undertaking the role-play, students must “organise” their personal value systems into priorities, before ultimately adopting certain behaviours and attitudes in the “characterising” domain. Students must move through the learning hierarchy from listening to others, responding, articulating their values, displaying analytical objectivity, fairness, and balance (assuming that those qualities are part of their value systems), and adjusting their judgment and behaviours in the light of new evidence.<sup>94</sup> The ways in which students grapple with the nuances and challenges that inevitably arise (including where their personal values or preferences conflict with their understanding of the real world, including what they learned from the research exercise) are messy and unpredictable. Students sometimes step in and out of role during the workshop, expressing tensions between their personal values, and those they perceive to belong to the legal profession. It is not always easy for the facilitators to keep the

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<sup>91</sup> See for example, Hilary Sommerlad, “Researching and Theorizing the Process of Professional Identity Formation” (2007) 34:2 JLS 190, 200.

<sup>92</sup> Brown and Hesketh, (n 83).

<sup>93</sup> Francis (n 37) 201.

<sup>94</sup> Kerry Shepherd, “Higher Education for Sustainability: Seeking Affective Learning Outcomes” (2008) 9:1 IJSHE 87, 88-89.



students on task, especially when they seek to express strongly felt views: “I wanted to pick Mohammed, but I knew that the firm would pick Natalie in real life. That’s so unfair.” But the benefits of learning within the affective domain outweigh those challenges, especially when the final part of this phase is considered.

Following the role-play, the workshop facilitators use a Socratic questioning method, designed to draw out the reasoning on which students’ decisions with the role-play were based. In the discussion which follows, facilitators challenge the bases of these reasons. This is not difficult to do, given the way that the person specification and the curriculum vitae are encoded: every aspect of the person specification *may* be supported by evidence from each fictitious candidate. A decision to choose one candidate over another can therefore readily be shown to be based on more than “the bare facts”, but on a set of assumptions about the written texts brought by the students within the role-play. The discussion aims to draw out the ways in which students themselves, when acting in role, express the views of recruiters into the legal profession. It shows students how apparently neutral criteria (“merit”, “talent”) can be more readily met by some types of candidates than others.

During the role-play, students also invariably identify themselves with one or more aspects of the fictitious characters. Each student begins to see more clearly how her or his profile might appear to a future employer. Students begin to bring together the first phase of *The Fairness Project*, and what they learned about (lack of) diversity in the legal profession, and its second phase. They begin to enter into a deeper reflection on the findings of their research, by considering what reasons might explain that lack of diversity. By making emotional responses explicit during the discussion part of this phase, facilitators are able to draw on affective learning modes to deepen these responses. Students began to process their behaviours within the affective domain at the more complex end of the learning hierarchy. This leads to the third phase of *The Fairness Project*, which takes place in “characterising” and “reflecting” stages of affective learning.

### ***C. Characterising information and Reflecting on learning***

In the final phase of *The Fairness Project*, we seek to encourage students to characterise the behaviours they encountered during the role-play, in the context of the research exercise, and to reflect on what they have learned. No student wants to characterise their behaviour or values as unfair, or inconsistent with treating people equally according to “merit” or “talent”. But in this final phase, students are encouraged, through the discussion following the role-play, to begin to understand the ways in which they themselves relied on various assumptions when carrying out their roles as recruiters within the legal profession, and how “neutral” notions of “merit” and “talent” are understood. Furthermore, and most importantly, students begin to situate their own profiles within the processes about which they have learned through the workshop. By reflection on a comparison between their own curriculum vitae and those of the fictitious characters in the workshop, students begin to realise what the reality of recruitment in the legal profession means for each of them, as individuals with their own social and cultural capital.

*The Fairness Project* inculcates a recognition that students from less well-off, non-middle-class backgrounds, with no personal contacts with the legal profession, are significantly disadvantaged as compared to others, especially where personal characteristics of gender or ethnicity (or both) also implicate disadvantage. Of course, each student will experience and respond to the project differently, depending in part on their own place in the social order of

recruitment to the legal profession.<sup>95</sup> But as the majority of our students, taken across all three institutions, are in that disadvantaged category (and by definition none are at Oxbridge, so all are subject to some disadvantage), the project needs to go further, to offer strategies for how students might nonetheless navigate that environment, and take advantage of those opportunities that do exist.

### III. Fairness Project strategies

Our experience of running *The Fairness Project* is that some students find it discouraging to realise, perhaps for the first time, the extent of the challenges that they may face in accessing graduate legal employment. This realisation can be particularly damaging where the new awareness of the potential barriers significantly undermines students' confidence, as confidence and self-belief play a crucial role in employability.<sup>96</sup> We do our students no favours by eroding their confidence. However, we would argue that to let them continue in misconceptions of the legal recruitment market is potentially even more detrimental. It will be more difficult for our students to overcome a loss of confidence post-graduation, outside of the network of support systems available in universities: better to ensure that students encounter a "reality check" during their studies. Further, to obfuscate our students' place in the market for trainee lawyers also potentially places us, as academic staff, in an ethically compromised position, where we may find ourselves promulgating employability advice that is misguided at best, and deceptive at worst.

Therefore, the process of raising student awareness of professional diversity barriers engenders a further moral imperative for us, as educators, to work alongside students in developing constructive strategies to tackle such barriers, as realistically and effectively as possible. There is already a plethora of employability advice and guidance available to most law students from within their Law Schools or, more generally, from University Careers Services. However, part of the wider ambit of *The Fairness Project* is to move beyond generic employability strategies, to more critically aware and tailored approaches. Such approaches seek to encompass the individual career goals of our students, while acknowledging their socio-economic status, gender identity, ethnicity, cultural background, sexuality, disability, and so on, and the intersectionality of such attributes for many of them. Any employability strategies must remain firmly rooted in an explicit recognition of the contextual bias of the current legal recruitment market in order to be meaningful and effective: "it is not enough to make [students] employable unless they become employed".<sup>97</sup> *The Fairness Project* seeks to raise student awareness, while providing realistic hope and practical guidance on ways in which to navigate the terrain successfully.

In this regard, one of the key elements of *The Fairness Project*, compared to more generic employability strategies, is its compulsory nature. Those students who opt out of employability advice and guidance are often those who most need the support. Many law students will self-select out of the recruitment processes for training contracts, daunted by the "mixed messages from firms".<sup>98</sup> By requiring all our students to experience the learning

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<sup>95</sup> One white, male student brought a complaint to the Head of School, to the effect that he did not see why he should be made to 'waste so much time' on equality and diversity.

<sup>96</sup> Lorraine Dacre Pool and Peter Sewell, "The Key to Employability: Developing a Practical Model of Graduate Employability" (2007) 4 ET 277, 286; Jacqueline Stevenson and Sue Clegg, "Possible selves: students orientating themselves towards the future through extracurricular activity" (2011) 37 British Educational Research Journal 231; Sue Clegg, "Time future – the dominant discourse of higher education" (2010) 19:3 Time & Society 345; Michael Tomlinson, "Investing in the self: structure, agency and identity in graduates' employability" (2010) 4 Education, Knowledge & Economy 73; Francis (n 37).

<sup>97</sup> Francis, (n 37) 199.

<sup>98</sup> Francis, (n 37) 185.

involved in the project, we seek to provide a learning environment within which students can develop motivation and perseverance.<sup>99</sup> We recognise that this is far from an easy process, and the learning experiences of *The Fairness Project* are bound to be more effective for some students than others. Moving through the lower levels of the affective domain, receiving and responding to difficult employability messages, assimilated into supportive workshop environments, students are enabled to move to the higher levels of organising, valuing, and characterising their knowledge and understanding.<sup>100</sup> Students are supported in how to reflect and effectively respond to a challenge to their understandings of the world (it is not the case that all law students have an equal chance in the legal profession), without being paralysed into inaction by the realisation (I might as well give up my career aspirations now). Rather, students are encouraged to act purposively and judiciously.<sup>101</sup>

### *A. Role models*

The importance of raising aspirations is an integral part of government policy relating to the social mobility agenda in the professions generally.<sup>102</sup> The extent of diversity barriers within the legal profession makes aspiration-raising even more pertinent in that context.<sup>103</sup> A significant proportion of the students who participate in *The Fairness Project* come from backgrounds where they may have little social or cultural capital, particularly for pursuing a legal career.<sup>104</sup> For these students, it may be especially challenging to envisage what a legal career might entail, what entry routes into the profession exist, what types of work may be available, and what knowledge, skills, attributes and “polish”<sup>105</sup> may be required.<sup>106</sup>

Providing positive role models is one important element in raising aspirations and confidence in prospective future lawyers. We can provide some modelling of successful professionals in our own practice: all of us are women. But to go further, in recognition of this, we incorporate into *The Fairness Project* the Law Society’s Social Mobility Ambassadors Scheme.<sup>107</sup> The Scheme has been running since 2015 and each year the Law Society selects successful lawyers from a diverse range of backgrounds (in terms of ethnicity, gender and socio-economic status) to act as Ambassadors. We ask students to choose one of the Ambassadors, to listen to his/her story, and then to reflect on how this role model might inspire them individually. We anticipate that this resource will become increasingly valuable as the number of Ambassadors grows year on year, giving students from all backgrounds and circumstances a wider selection of role models with whom they can identify. A particular

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<sup>99</sup> This terminology is used in Margherita Bacigalupo, *et al.*, “EntreComp: The Entrepreneurship Competence Framework” (European Commission: Joint Research Centre Science for Policy Report, 2016) 16.

<sup>100</sup> Krathwohl *et al.*, (n 68).

<sup>101</sup> Ronald Barnett, “Learning for an unknown future” (2012) 31:1 HERD 65.

<sup>102</sup> Panel on Fair Access to the Professions, “Unleashing Aspiration: The Final Report of the Panel on Fair Access to the Professions” (2009) ch. 4. Available at:

<http://webarchive.nationalarchives.gov.uk/+/http://www.cabinetoffice.gov.uk/media/227102/fair-access.pdf>, accessed 08 December 2017; Social Mobility and Child Poverty Commission (n 45)

<sup>103</sup> Louise Ashley, *et al.*, “A Qualitative Evaluation of Non-Educational Barriers to the Elite Professions” (Social Mobility and Child Poverty Commission, 2015), 9, available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434791/A\\_qualitative\\_evaluation\\_of\\_non-educational\\_barriers\\_to\\_the\\_elite\\_professions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434791/A_qualitative_evaluation_of_non-educational_barriers_to_the_elite_professions.pdf) (accessed 08 December 2017).

<sup>104</sup> Francis, (n 37), 194-195; Sommerlad (2015), (n 33).

<sup>105</sup> Social Mobility and Child Poverty Commission (n 23), 26 and 40.

<sup>106</sup> Francis, (n 93), 191-192.

<sup>107</sup> Law Society, “Social Mobility Ambassadors” (2016) <http://www.lawsociety.org.uk/law-careers/becoming-a-solicitor/equality-and-diversity/social-mobility-ambassadors/ambassadors-2016/>, (accessed 30 October 2017).

advantage of the Ambassador Scheme is that it demonstrates tangibly how people have successfully navigated diversity barriers that the students themselves may face.

*The Fairness Project* has also served as a catalyst, improving levels of staff awareness of professional diversity barriers within our Law Schools and contributing to a more contextualised employability culture. The support of Heads of School has enhanced this effect. At all three participating law schools, the project is delivered as part of core teaching by a large teaching team, giving many staff the opportunity to explore the issues raised alongside their students, and reflect on what it means for their professional practice. Concrete examples of corollaries of this shift in culture include a more intentional approach to selecting guest speakers so that they better reflect the demographic profiles of our student bodies and/or demonstrate visibly different successful lawyers; and choosing images for our Law School corridors (and our online presence), that represent both law students and legal professionals from a more diverse range of backgrounds.

### ***B. Knowledge is power***

It is important to understand the employment market into which you wish to progress. This is the case for all law students, but knowing a particular professional sector may be easier for some than for others. Law students from more privileged backgrounds often have high levels of social capital in terms of professional contacts generally and exposure to the legal profession in particular.<sup>108</sup> Those who attend the more selective Higher Education Institutions may have less need of a detailed knowledge of the market, as it is standard practice for high profile law firms to come to them, through structured recruitment schemes involving University partnerships, regular visits, networking opportunities and mentoring.<sup>109</sup> Access to work experience, and the ability to benefit from such opportunities, is not always a level playing field.<sup>110</sup> It is therefore particularly important for those students to whom the market is most closed, first to understand the systemic nature of these barriers, and second to have access to tangible market intelligence designed specifically to give them traction in competing in such a challenging environment. *The Fairness Project* seeks to do so, through raising student awareness of four specific purposive strategic actions students may take, empowered<sup>111</sup> by the knowledge inculcated through the project.

First, students may actively seek out law firms which are operating or experimenting with blind and contextual recruitment processes. These processes are designed to remove some of the inherent bias from recruitment decisions, with a view to identifying applicants with the most potential. Such blind and contextual recruitment processes have become more prevalent in recent years, particularly as the social mobility discourse has gained some credence.<sup>112</sup> At the more sophisticated end of the scale, some of the highest profile law firms use contextual recruitment services based on wide-ranging sources of data and complex software.<sup>113</sup>

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<sup>108</sup> Francis, (n 37), 187-188. See also Sommerlad et.al (n 29); Ashley and Empson (n 31); Rolfe and Anderson (n 32); Sommerlad (2011) and (2015) (n 33); Francis and Sommerlad (n 37); Lehamann (n 37); Brown and Hesketh (n 83); Nicholson (n 87); Sommerlad (2007) (n 91).

<sup>109</sup> Social Mobility and Child Poverty Commission, (n 23), 9-10.

<sup>110</sup> Francis, (n 37), 185 and 188-193, and the sources cited in n 108.

<sup>111</sup> We are aware – and the project teaches students – that the very notion of ‘empowerment’ or ‘assertiveness’ is also a differentially experienced skill or capacity.

<sup>112</sup> Social Mobility Commission, ‘State of the Nation 2016: Social Mobility in Great Britain’ (2016) <<https://www.gov.uk/government/publications/state-of-the-nation-2016>> (accessed 29 October 2017).

<sup>113</sup> For example, ‘rare’ Contextual Recruitment Services number all the Magic Circle and Silver Circle law firms as clients, together with many, but not all, of the other high-profile City firm: rare, “Our Clients” (undated) <<https://rarerecruitment.co.uk/Clients.php>> (accessed 29 October 2017).

However, the Law Society is promoting both blind and contextual recruitment across the sector more widely.<sup>114</sup> For students from less privileged backgrounds, it can be particularly valuable to know or to ask which firms operate such recruitment practices as it potentially enables those students to access posts that might otherwise not be open to them (or, perhaps as importantly, which they perceive might not be open to them).

Second, and relatedly, there are a range of diversity schemes both specific to the legal profession<sup>115</sup> and generic to the wider employment market.<sup>116</sup> *The Fairness Project* workshops provide a forum to prompt students to learn about such schemes, and identify any that may be particularly suited to their circumstances. We also signpost a range of external professional networks (particularly diversity and alumni networks) that may be of benefit to our students, either now or in the future.<sup>117</sup>

Third, looking at the recruitment practices of law firms realistically can support students in effective strategies that do not expend time and effort fruitlessly. In particular, armed with the knowledge that many regional, national, and international law firms sift on A-level grades,<sup>118</sup> students can avoid applying to law firms which do so, which would mean an application would fail through the operation of software algorithms before even reaching the desk of the recruiting team.

Fourth, students' reflections on how their profiles may be perceived in recruitment contexts may prompt them to improve those profiles, either through gap-filling, or through presenting the information in ways designed to enhance the chance that it will be read as embodying the sought-for qualities favoured in elite recruitment. *The Fairness Project* explicitly invites students to reflect on how they might improve their curriculum vitae, through reflecting on how it may be perceived. Further, students may, for instance, consider developing interview skills by modifying their spoken register, or even their accents, to express themselves in ways that will be understood as more "suitable" for a legal career.

### ***C. Career trajectories and strategies: one size does not fit all***

In prompting and supporting individual reflection and action, *The Fairness Project* offers an individual, strategic and critically informed approach to each student's career aspirations. For instance, we encourage students to consider how they might move flexibly up the career ladder, designing step by step plans to reach longer term goals, and being ready to respond flexibly to changing needs within the profession. For example, a student at Lancashire Law School, with BCC at A-level may aspire to be a partner in a corporate department in a national

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<sup>114</sup> Law Society, 'Using blind and contextual processes for the recruitment of trainee solicitors: Encouraging social mobility - Guidance and toolkit for England' (2016) <[www.lawsociety.org.uk/support-services/advice/articles/fair-recruitment-toolkit/](http://www.lawsociety.org.uk/support-services/advice/articles/fair-recruitment-toolkit/)> (accessed 10 March 2018).

<sup>115</sup> For example, Law Society Diversity Access Scheme, <<http://www.lawsociety.org.uk/law-careers/Becoming-a-solicitor/equality-and-diversity/diversity-access-scheme/>>, (accessed 09 December 2017); Aspiring Solicitors, <<https://www.aspiringsolicitors.co.uk/>>, (accessed 09 December 2017); Freshfields Stephen Lawrence Scholarship Scheme, <[https://www.freshfields.com/en-gb/about-us/responsible-business/freshfields\\_stephen\\_lawrence\\_scholarship/](https://www.freshfields.com/en-gb/about-us/responsible-business/freshfields_stephen_lawrence_scholarship/)>, (accessed 09 December 2017).

<sup>116</sup> e.g. Disability Confident Scheme, <<https://disabilityconfident.campaign.gov.uk/>>, accessed 09 December 2017.

<sup>117</sup> e.g. Law Society Divisions for Ethnic Minority Lawyers, Lawyers with Disabilities, LGBT Lawyers, Women Lawyers, <<http://www.lawsociety.org.uk/support-services/practice-management/diversity-inclusion/>>, (accessed 09 December 2017); Black Lawyer's Directory, <<http://www.onlinebld.com/>>, (accessed 09 December 2017); Black Solicitors' Network, <<https://www.blacksolicitorsnetwork.co.uk/>>, (accessed 09 December 2017); Lesbian and Gay Lawyers Association, <<http://www.lagla.org.uk/>>, (accessed 09 December 2017).

<sup>118</sup> This information was gained through careers advice meetings with students in Lancashire Law School, UCLan in 2014/15, 2015/16 and 2016/7. The sift is often on AAB or ABB.

firm. It is almost impossible that s/he would be able to access a training contract with this firm on completing their Legal Practice Course. However, such a student may do very well at University, taking opportunities to volunteer in a pro bono Law Clinic or competing in skills competitions, alongside building professional networks. On completing the academic stage of training, the student may access a paralegal position in a local firm that allows him/her to develop expertise and professional contacts that serve well in applying for a training contract either within that firm or elsewhere. At the post-qualification stage, it should prove easier to move diagonally from local firm, to regional firm, to national firm, should reputation and billing merit such progression. Given that some law firms would never consider applicants from a post-1992 University, an alternative strategy for such applicants may be to undertake a LLM in a Russell Group University prior to applying for training contracts.<sup>119</sup> In any event, maintaining awareness of the fluctuations in areas of legal practice can also provide opportunities for pro-active advancement. *The Fairness Project* seeks to ensure students are aware that the traditional “linear career system” is transitioning into a “multidirectional career system”<sup>120</sup> and to prepare them for this accordingly.

*The Fairness Project* recognises the significance of intersectionality<sup>121</sup> in attempting to address the multi-layering of diversity barriers that make it more difficult for some students to access graduate employment in the legal profession than others. Some students may face more than one professional diversity barrier due to an intersection of their social identities: students from low socio-economic backgrounds with disabilities, Asian female students, and so on. The role-play and follow-up involve students judging the relative merits of fictitious students who have multiple diversity barriers; and considering their own profiles, identifying the intersectionality of their social and emerging professional identities, linking these to potential career barriers, and considering any deficits in their education, skills and experiences, and their social or cultural capital. While recognising that it is not equally easy for all students to do so, we point students to opportunities during their university experience to rectify any such gaps in their profiles, for instance by seeking out specific skills training in oral or written skills; expanding networks by joining local law societies or chambers of commerce; and participating in the myriad networking, volunteering, pro bono work and other employability opportunities open to them within our Law Schools and universities.

Beyond providing a catalyst to “gap filling” in terms of their profiles, however, *The Fairness Project* inculcates an “assets focused” model<sup>122</sup> of personal identity formation. For at least some of our students, *The Fairness Project* will facilitate the development of the highest level of the affective domain, characterisation.<sup>123</sup> In order to learn in the characterisation domain, students must practise self-reliance, commitment and resilience. In carrying out this exercise, we are inviting students to explore notions of “possible selves”<sup>124</sup> by subtly asking students to imagine what they could become. Getting students to imagine themselves as lawyers and where they might see themselves “fitting in” to the legal profession at some future point in time is a valuable exercise in itself.<sup>125</sup> Yet the project firmly grounds such an imaginative exercise in the objective reality of each student’s own career prospects. The project encourages students to expand the range of “possible future selves” within their imaginary capacities. Such an imagined future self is essential to the formation of a “*habitus*”,

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<sup>119</sup> Feedback from recruiters at Law Fairs suggested this strategy as an alternative route of access to some firms

<sup>120</sup> Yehuda Baruch, “Transforming Careers: From Linear to Multidirectional Career Paths: Organizational and Individual Perspectives” (2004) 9:1 CDI 58.

<sup>121</sup> See footnote 55, above.

<sup>122</sup> David Takacs, “How Does Your Positionality Bias Your Epistemology” (2003) *Thought & Action: The NEA HE Journal* 27.

<sup>123</sup> Krathwohl *et al.*, (n 68).

<sup>124</sup> Hazel Markus and Paula Nurius, “Possible Selves” (1986) 41:9 AP 954.

<sup>125</sup> Stevenson and Clegg, (n 96); Sue Clegg, (n 96); Tomlinson, (n 96); Francis, (n 37)



which enables an individual to function within a particular professional field.<sup>126</sup> And beyond merely imagining such future identities, students are also empowered to “package” that “self” so that each element of self, and the hard and soft currencies of employability, come together, in the “perfect manifestation” of educational achievement, skills and experience, and personal, social and cultural capital which is so valued by employers.<sup>127</sup>

***D. And finally – (potentially) breaking the cycle in the future***

Finally, *The Fairness Project* seeks to make at least a potential contribution to breaking the cycles of “merit”-based perpetuation of advantage and consequent lack of diversity in the legal profession. The project seeks to inculcate in students an understanding of how recruitment processes operate, to encode advantage and exclude those who do not “fit”, without overtly discriminating on the grounds of gender, ethnicity, or indeed other protected characteristics under the Equality Act 2010, or social class. That emergent understanding, especially for those students who access the reflective phases of learning through the project, invites students to seek future professional and personal development that helps them to uncover their own biases. Those of our students who become lawyers might – because they have experienced *The Fairness Project* – seek to adopt more inclusive practices than those to which they are currently subjected. Our hope is that, in the future, our students will access equality training, embody best-practice in recruitment processes, notice and challenge coded notions of “merit”, and, above all, continue to develop as reflective practitioners, aware of their own conscious biases and the fact of their unconscious biases, so that they might become fairer employers and managers in the future.

**IV. Conclusions**

Structural inequalities in the legal profession are all-pervasive and long-standing. Of course, no one project, no one generation, will secure equality, more diversity and fairness in the legal profession. But that is not a reason to do nothing. After all, just 100 years ago, not one of us would have had the job that we have within legal education. Societies do change, and they sometimes change towards greater equality, although the pace of change may seem glacially slow, and at times it may feel like “two steps forward, one step back”. The law is one vector of such changes; education is another. Without wanting to overstate the case, as legal educators, we thus stand at a unique vantage point in terms of the possibilities of our contributions. Others have investigated and reported on the phenomena we describe above: access to the legal profession is no longer based on overt discriminatory practice, but structural disadvantages persist. We seek to go further than investigating the ways in which this is the case: we want to *do* something. Here, of course, as relatively powerful individuals within the university, we need to be careful not to participate in the very structures which we seek to challenge. *The Fairness Project* is based on our acute awareness that curriculum interventions which are insufficiently attentive to the ways in which gender, ethnicity and social class inform and interact with notions of legal “employability”, “merit”, and “fit” will be ineffective in helping our students realise their ambitions, supporting social mobility, or enhancing diversity. The project’s design begins from that realisation, and above all it seeks to ensure that our students understand it too. If our students learn one thing from *The Fairness Project*, it is that the legal labour market is not a neutral sphere in which individuals succeed by virtue of their own inherent (academic and other) merits and efforts. Rather, gender, ethnicity, social and

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<sup>126</sup> Sommerlad, (2007) (n 91) 200.

<sup>127</sup> Brown and Hesketh, (n 83).

educational background play a key role in what appear to be neutral hiring and promotion decisions in the legal profession. Further, our students are in effect asked to think about how their gender, ethnicity, social and educational background might influence their life chances and how that might affect their future career destinations. Armed with that critical awareness, we offer a number of positive strategies, which we seek to tailor to each student individually, recognising that accessing such strategies in itself is easier for some students than for others. Our hope is that these strategies better equip our students to compete in the market for legal professional employment. In a small way, therefore, *The Fairness Project* pursues a grand ambition. It is seeking to intervene in and disrupt the perpetuation of unfair practices in the legal profession.

There are obviously some drawbacks of seeking to pursue such an ambition. The challenges of including equality and diversity in course content and of effectively delivering this kind of educational experience are well documented.<sup>128</sup> Any counter-cultural teaching and learning practices presents challenges. Most learning and teaching in law schools is firmly situated in the cognitive domain. The majority of law school staff thus tend to feel most comfortable in that world of clearly defined, articulated and assessable objectives. In contrast, the affective domain, with its non-linear, messy processes and unpredictable outcomes, may leave educators feeling at least somewhat exposed as they navigate their way through the more contentious world of feelings, attitudes and values. This may be felt particularly keenly by academic staff within this inherently difficult and potentially divisive subject area of diversity and equality, fairness and justice. That discomfort is shared by staff and students alike. We have certainly experienced it in our law schools, as we have used *The Fairness Project* in our respective curricular contexts.

However, teacher or learner discomfort in itself is not sufficient reason to avoid operating within the affective domain, particularly when its objectives so clearly align with this project and its aims and underlying ethos. As educators and as human beings, who ourselves are relatively advantaged, we feel a moral and pedagogical imperative to do what we can, where we are. That is what *The Fairness Project* is all about.

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<sup>128</sup> See, for instance, Joy G. Gayles, et al., "Faculty Teaching Diversity Through Difficult Dialogues: Stories of Challenges and Success" (2015) 52:3 JSARP 300; Takacs (n 122).

## Appendices

### Table 1 Initial research questions

Are there more women or men in the legal profession at the current time (excluding partners and other members of staff in law firms)?

What percentage of partners or managers in law firms are women?

What is the gender pay gap for solicitors?

If 17% of all solicitors in the biggest firms (i.e. firms with 50 or more partners) are from black and minority ethnic backgrounds, what percentage of partners or managers in these firms are from black and minority ethnic backgrounds?

What is the ethnicity pay gap for solicitors?

7% of the UK population have had a private school education. What is the percentage of lawyers who have had a private school education?

What is the percentage of partners or managers in the top commercial firms who have had a fee-paying education?

What is the percentage of senior judges who have had a fee-paying education?

### Table 2 a Role-play recruitment exercise: person specification UCLan

You are the recruitment partners in a rural Cumbrian law firm. It is a large and longstanding high street practice with a number of local branches: it specialises in property, private client and commercial/agricultural law. The firm is involved in a lot of local events such as agricultural fairs and National Union of Farmers events.

You are making the final decision with regards to the recruitment of a new trainee lawyer. The "Person Specification" is attached.

Job title: Trainee Lawyer

Reports to: Supervising Partner/Senior Associate

Salary: Not less than the Law Society minimum

#### Person specification

The potential to develop the key skills and expertise required to be an outstanding solicitor including:

Legal and procedural knowledge.

Proof reading.

Attention to detail.

Communication skills.

Commercial acumen.

Advocacy and presentational skills.

Case and time management.

Drafting.

Practice support.

IT.

#### Marketing

A minimum of a 2:1 degree from a reputable university.

Participate in the Firm's marketing and networking strategies as directed.

To become confident in dealing with clients and other professionals and to learn the ability quickly to earn the trust of clients and others in all dealings.

To provide a valuable contribution to the work of each department to which the trainee has been allocated a seat, to assist each training principal with his or her daily workload and to provide practice support both departmentally and generally within the Firm.

### Table 2 b Role-play recruitment exercise: person specification Northumbria

You are the recruitment partners in a rural Cumbrian law firm. It is a large and longstanding high street practice with a number of local branches: it specialises in property, private client

and commercial/agricultural law. The firm is involved in a lot of local events such as agricultural fairs and National Union of Farmers events.

Person Specification for Trainee Lawyer

The potential to develop the key skills and expertise required to be an outstanding solicitor including:

Legal and procedural knowledge.

Proof reading.

Attention to detail.

Communication skills.

Commercial acumen.

Advocacy and presentational skills.

Case and time management.

Drafting.

Practice support.

IT.

Marketing

A minimum of a 2:1 degree from a reputable university.

Participate in the Firm's marketing and networking strategies as directed.

To become confident in dealing with clients and other professionals and to learn the ability quickly to earn the trust of clients and others in all dealings.

To provide a valuable contribution to the work of each department to which the trainee has been allocated a seat, to assist each training principal with his or her daily workload and to provide practice support both departmentally and generally within the Firm.

Table 2c Variant Sheffield

You are a recruitment partner in one of Sheffield's medium-sized law firms. Your firm began as a small high-street firm but has grown rapidly over the last ten years as more business has come to the city. You specialise in property and private client law and are deeply connected to the Sheffield community, but you are also dealing with wealthy clients very frequently.

You are recruiting a new trainee lawyer. This is a major investment in what is a relatively a small firm, and you need to make sure you get the right person. With the current economic climate, the wrong decision could spell the end of the firm's success. You could even be out of a job yourself.

Job title: Trainee Solicitor

Reports	to:	Supervising	Partner/Senior	Associate
Salary:	Not less than	the	Law Society	minimum

Candidate Specification:

The potential to develop key skills and expertise in the areas including:

Legal knowledge and procedure.

Proof reading

Attention to detail

Communication skills

Commercial acumen

Advocacy and presentational skills

Case and time management

Drafting

Practice Support

IT

Marketing

A minimum of a 2:1 degree from a reputable university

Participate in the Firm's marketing and networking strategies

### *The Fairness Project*

Confidence when dealing with clients and the capability to build working relationships with them

The candidate should be able to show a valuable contribution to the work of each department to which the trainee has been allocated a seat, the ability to manage his/her daily workload and to provide practice support within the firm.

Table 3a CVs UCLan

Mohammed and Rebecca both have 2:1 degrees from universities in the North West of England. Mohammed went to Manchester Metropolitan University and comes from Nelson, a town with a higher than average black and minority ethnic (BAME) population. Rebecca went to Liverpool university and comes from Clitheroe, a predominantly white middle class town with a lower than average BAME population. Mohammed went to a local non-selective school and has BBC at A level. Rebecca went to a selective state school and has ABB.

Mohammed has worked part time for his family's business (student property rentals) since he was 16; he also has 4 weeks work experience at his local pro bono advice centre and shadowed a local lawyer for a week during his third year. He decided he wanted to become a solicitor after his uncle was unfairly selected for redundancy 3 years ago. He is a keen footballer playing for a local team and mentors under 12s on a Saturday morning. He is enthusiastic and personable; he has a strong regional accent.

Rebecca has undertaken legal work experience at a range of medium-sized commercial firms over the three years of her degree and has experience with a prestige Manchester firm. She is familiar with the legal profession as a number of family members are lawyers. She has wanted to be a member of the profession since she was young. She volunteered as a teaching assistant for 6 months in Kenya before university and interned with a British marketing company in their Frankfurt office after her third year exams. She is a keen horse woman. She is articulate and the partners feel she will connect well with clients.

Both performed well in individual and team tasks. Who should the firm recruit?

Features	Mohammed	Rebecca
Degree	2:1 from a Post '92 University	2:1 from Russell Group University
School	Non-selective state school	Selective state school
Work experience	Worked in family business (student property rentals); 4 weeks' work experience at his local pro bono advice centre and shadowed a local lawyer for a week during his third year.	Legal work experience at a range of medium-sized commercial firms over the three years of her degree and has experience with a prestige Newcastle firm; interned with a British marketing company in their Frankfurt office after her third year exams.
Interests	Football (plays and mentors under 12s)	Keen horsewoman and volunteered as a teaching assistant for 6 months in Kenya before university
Motivation to do law	He wanted to become a solicitor after his uncle was unfairly selected for redundancy 3 years ago	She is familiar with the legal profession as a number of family members are lawyers. She has wanted to be a member of the

		profession since she was young
Other	Enthusiastic and personable; he has a strong regional accent.	She is articulate and the partners feel she will connect well with clients

Table 3b CVs Northumbria

Mohammed and Rebecca both have 2:1 degrees from universities in the North East of England. Mohammed went to Northumbria University and comes from Nelson, a town with a higher than average black and minority ethnic (BAME) population. Rebecca went to Newcastle University and comes from Clitheroe, a predominantly white middle class town with a lower than average BAME population. Mohammed went to a local non-selective school and has BBC at A level. Rebecca went to a selective state school and has ABB.

Mohammed has worked part time for his family's business (student property rentals) since he was 16; he also has 4 weeks work experience at his local pro bono advice centre and shadowed a local lawyer for a week during his third year. He decided he wanted to become a solicitor after his uncle was unfairly selected for redundancy 3 years ago. He is a keen footballer playing for a local team and mentors under 12s on a Saturday morning. He is enthusiastic and personable; he has a strong regional accent.

Rebecca has undertaken legal work experience at a range of medium-sized commercial firms over the three years of her degree and has experience with a prestige Newcastle firm. She is familiar with the legal profession as a number of family members are lawyers. She has wanted to be a member of the profession since she was young. She volunteered as a teaching assistant for 6 months in Kenya before university and interned with a British marketing company in their Frankfurt office after her third year exams. She is a keen horse woman. She is articulate and the partners feel she will connect well with clients.

Both performed well in individual and team tasks. Who should the firm recruit?

Features	Mohammed	Rebecca
Degree	2:1 from a Post '92 University	2:1 from Russell Group University
School	Non-selective state school	Selective state school
Work experience	Worked in family business (student property rentals); 4 weeks' work experience at his local pro bono advice centre and shadowed a local lawyer for a week during his third year.	Legal work experience at a range of medium-sized commercial firms over the three years of her degree and has experience with a prestige Newcastle firm; interned with a British marketing company in their Frankfurt office after her third year exams.
Interests	Football (plays and mentors under 12s)	Keen horsewoman and volunteered as a teaching assistant for 6 months in Kenya before university
Motivation to do law	He wanted to become a solicitor after his uncle was unfairly selected for redundancy 3 years ago	She is familiar with the legal profession as a number of family members are lawyers. She has wanted to



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		be a member of the profession since she was young
Other	Enthusiastic and personable; he has a strong regional accent.	She is articulate and the partners feel she will connect well with clients

Table 3c CVs Sheffield

Mohammed Amir

Phone No. 07998877554 | Email. [M.Amir150895@gmail.com](mailto:M.Amir150895@gmail.com)

Study: Sheffield Hallam University: LL.B. Law, Second Class-Honours Upper Division (2:1)

College Education: Nelson College

<i>Subject</i>	<i>Grade</i>
Law	B
Sociology	B
English Language	C
General Studies	B

Secondary School Education: Owlerton High School

Employment History:

Amir's Student Rental Co. I worked part time at my fathers business in Sheffield part-time since I was 16 before I went to University. This involved photocopying documents and working on reception dealing with queries.

Work Experience:

Pro Bono Unit Sheffield I completed 4-weeks of work experience at my local pro bono unit in Sheffield city centre. I found this to be an eye opening experience and it inspired me to become a lawyer.

Volunteer work:

Mentoring under 12s football I am a keen footballer and have played both locally and for the School of Law. I spend my Saturday mornings coaching children under 12s to play football.

Awards:

Dave Douglas Davidson Memorial Prize I won this award for showing outstanding development at college.

Natalie Eliza Smith

Phone No. 07999444651 | Email. [N.E.Smith1@gmail.com](mailto:N.E.Smith1@gmail.com)

Study: University of Sheffield: LL.B. Law, Second Class-Honours Upper Division (2:1)

Sixth Form Education: Bury St Edmunds Sixth Form

<i>Subject</i>	<i>Grade</i>
Law	A
Sociology	B
English Language	B
General Studies	B

Secondary School Education: Bury St Edmunds Secondary School

Work Experience:

Lawyers "R" Us LLP I undertook a week of work experience at this medium sized firm in Cambridgeshire where I shadowed solicitors. I did this during the first year of my degree.

Firmly Law LLP I undertook 3 days of work experience at this medium sized firm in Cambridgeshire where I shadowed solicitors. I did this during the second year of my degree.

Sreywal Solicitors LLP I spent two weeks completing a vacation scheme at this large international firm in Manchester at the end of my second year of my degree.

Marketing & Spencer I interned with this British marketing company in Frankfurt. I enjoyed observing the kind of work they carried out and improving my commercial awareness skills while also experiencing life in a different country.

Volunteer work: Teaching Assistant in Kenya I spent three months working as a teaching assistant in Kenya after my graduation. This was out of my comfort zone but I soon was able to adapt and rose to the challenge.

Hobbies:

Horse riding

Writing for the student newspaper

Socialising with my friends

Once you have read Mohammed's CV you need to reflect on some information taken from his interview, as well as your local knowledge:

Owlerton High School is a local non-selective school. 20% of the students go onto further study.

He has a strong regional accent.

At Nelson College he was in the top 10% of students.

He comes from a part of Sheffield with a higher than average black and ethnic minority (BME) population.

He is the first member of his family to attend university.

Once you have read Natalie's CV you need to reflect on some information taken from her interview, as well as your local knowledge:

Bury St Edmunds Secondary School is selective state-school.

Firmly Law LLP is a firm in which her father is a partner and Marketing & Spencer is a company for which her older brothers have been working as their in-house lawyers.

She comes from an area which is predominantly white middle class and has a lower than average BME population.

Table 4: Reflection on your cv (Sheffield's personal tutorial)

Your CV may look similar to one of these two candidates. We cannot escape where we come from and who we are. Some of us will have benefitted from having certain financial assurances or connections in the profession we want to move into. This does not mean one person is better than the other, nor does it mean that it was easy for someone in a more privileged position than someone else.

We will be discussing this further in the Workshop, but do discuss it independently in your tutorial group or with other people who are also doing WINS2.

What we should learn here is that we can turn apparent deficits into assets. Look back at the Takacs reading at task 2, and your answers to Question 1.<sup>129</sup>

Remind yourself of the Takacs<sup>130</sup> reading above.

Individually, critique each of the two CVs in accordance with the job description. Annotate the CVs where you think the candidate could turn a deficit into an asset. Where could it be made clearer that an apparent disadvantage can be used to that applicant's advantage and make them a more appealing candidate?

What could Mohammed do to make it clear that he has excelled despite his background? Should he try to convey that in his CV? What other information should he add about himself, either about his time at university or outside of university?

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<sup>129</sup> The questions above about diversity in the legal profession.

<sup>130</sup> Takacs (n 122).

What could Natalie do to make it clear that she has excelled despite already having connections in the legal profession? Where might she add to her CV to show that she has made the most of the opportunities given to her?

Completing this task will aid your preparation for your Tutorial where you will be critiquing and providing positive and constructive criticism on the CVs of your peers, and receiving valuable feedback on your own CV.

CV stands for curriculum vitae and can be roughly translated from Latin to “[the] course of [my] life”.<sup>131</sup> If you’ve never had a full-time or part-time job or have never volunteered then it may be likely that you have never needed a CV. You may have your CV but haven’t updated it since you arrived at the University.

By the time you have completed all the work on this topic, you will be in a stronger position to determine how to create a CV that is ideal for the jobs for which you intend to apply. At that point you may wish to revisit your CV. For now, create or edit your own CV in light of your reading and reflection. Bring your CV to the Group Discussion and the Tutorial.

In the meantime you may want to consider contacting Career Connect, which is part of our careers service. You can sit down and talk through your CV with a careers advisor and perhaps bring some advice to your tutorial for discussion.

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<sup>131</sup> See Oxford Dictionaries, “Curriculum Vitae”  
<<http://www.oxforddictionaries.com/definition/english/curriculum-vitae>> (accessed 10 December 2017).